

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BILLY M. SMITH,

:

Case No. 3:10-cv-448

Plaintiff,

-vs-

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

MONTGOMERY COUNTY
SHERIFF'S OFFICE, *et al.*,

Defendants.

:

ORDER DENYING STAY OF PROCEEDINGS FOR SCREENING

This case is before the Court on Plaintiff's Motion for Screening by the Volunteer Lawyers' Project and a Stay of Proceedings until that screening is complete (Doc. No. 139).

This case was filed on December 2, 2010, nearly two years ago. Trial was set for January 14, 2013 (Doc. No. 53). Discovery has been completed and the Magistrate Judge has just filed a Report and Recommendations on the parties' summary judgment motions. The case is thus ripe for decision on that Report and, if it is rejected, for trial. As Mr. Smith reports, he has contacted more than sixty attorneys about representing him, and all have refused. If the case were screened by the VLP and found to pass the screening test, Mr. Smith would be right back where he is now, because successfully passing the screening tests would not make any free attorney available to him nor substantially increase the likelihood any attorney would be willing to accept the case on a contingent fee basis. And the whole process would have been delayed at least another three

months. Had Mr. Smith requested referral at the outset of the case, the Court would have delayed the preliminary pretrial conference until screening was complete and would not have reserved a trial date on Judge Rose's calendar.

The Motion is denied.

October 11, 2012.

s/ *Michael R. Metz*
United States Magistrate Judge